

IN THE MICHIGAN COURT OF APPEALS

ORDER

Re: **People of MI v Bennie Graves**
Docket No. **275674**
L.C. No. **87-020482 FH**

William C. Whitbeck, Chief Judge, acting under MCR 7.203(F)(1) and 7.216(A)(10),
orders:

The motion to waive fees is GRANTED for this case only.

The delayed application for leave to appeal is DISMISSED for lack of jurisdiction because the defendant cannot appeal the denial or rejection of a successive motion for relief from judgment. See MCR 6.502(G)(1). The defendant does not even discuss, let alone demonstrate that he can satisfy the four-prong test for newly discovered evidence. The Court would note that for due diligence defendant was required to show that he exercised due diligence between July 9, 1987 and January 3, 2003, in trying to obtain what he claims is newly discovered evidence. See MCR 6.502(G)(2).



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

FEB - 7 2007

Date

Sandra Schultz Mengel
Chief Clerk